98TH CONGRESS
1st Session

SENATE

EXECUTIVE REPT.
No. 98–9

KYOTO CONVENTION ON CUSTOMS PROCEDURES

JUNE 8 (legislative day, JUNE 6), 1983.—Ordered to be printed

Mr. PERCY, from the Committee on Foreign Relations, submitted the following

REPORT

[To accompany Treaty Doc. No. 97–23]

The Committee on Foreign Relations, to which was referred the International Convention on the Simplification and Harmonization of Customs Procedures ("Convention"), which entered into force on September 25, 1974, with Annexes and Reservations to the Annexes, having considered the same, reports favorably thereon without amendment and recommends that the Senate give its advice and consent to ratification thereof.

PURPOSE

The purpose of this treaty is to promote international trade by simplifying the customs procedures and operations of member nations and making them more predictable and compatible. It should thereby serve to reduce or eliminate significant non-tariff barriers to international trade.

BACKGROUND

The first substantial proposals for customs simplification were sponsored by international congresses of European traders and brought forward by the International Chamber of Commerce for consideration by the League of Nations. Inter-governmental action taken under the aegis of the League resulted in the drafting of the international Convention for the Simplification of Customs and other formalities. This Convention, dated 3 November 1923, was the first concrete result obtained. The General Agreement on Tariffs and Trade (GATT, 1947) also contains provisions which represented further progress in the same direction.

The establishment, in 1947, of the European Customs Union Study Group gave a new impetus to this work. In 1949 the Study Group produced a Convention creating the Customs Cooperation Council, whose function was "to secure the highest degree of harmony and uniformity in . . . Customs systems and especially to study the problems inherent in the development and improvement of Customs

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technique and Customs legislation in connection therewith". The Council met for the first time in January, 1953. The United States became a member of the Council in 1970.

The Kyoto Convention was adopted by the Council in 1973 with the full participation and support of the United States. It is already in force for the states who have ratified it, which include 38 countries and the European Economic Community. Accession by the United States has been delayed pending the development of certain annexes to the Convention itself.

COMMITTEE ACTION

The Committee on Foreign Relations held a hearing on May 24, 1983 and heard testimony on the Convention from G. R. Dickerson, Deputy Commissioner of Customs for International Affairs in the Department of Treasury, presented by Dennis C. Sequeira, Assistant Deputy Commissioner at the U.S. Customs Service. That testimony is included as an Appendix to this report. The Committee also received letters in support of the Convention from Ambassador William Brock, the President's Special Trade Representative and from the American Association of Exporters and Importers, copies of which are also included in the Appendix.

On the same day, the Committee by voice vote ordered the Convention reported to the Senate with a recommendation that it receive favorable advice and consent.

COMMITTEE COMMENTS

The Convention is in two parts. The first part is a relatively brief body of 19 articles setting out the general provisions for implementation of the agreement. They deal with such matters as scope, structure, administration, accession and amendment procedures. The second part is a lengthy series of annexes containing the substantive customs obligations undertaken by states who become parties to them. States may accept a limited number of the thirty annexes and may enter reservations with respect to any of their provisions except the definitions. In accordance with the President's proposal for Senate advice and consent, the United States would become a party to twenty of the thirty annexes and would enter reservations to some of them in cases where they might conflict with current U.S. law and regulations.

Therefore, *ratification of the Convention would make no changes in existing U.S. law or customs practices and would require no implementing legislation. It would also have no budgetary impact.* The United States government would be obligated to review periodically the provisions of the annexes to which it has entered reservations and to report the results of those reviews to the Customs Cooperation Council.

PROPOSED RESOLUTION OF RATIFICATION

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advice and consent to the ratification of the International Convention on the Simplification and Harmonization of Customs Procedures ("Convention"), which entered into force on September 25, 1974 with annexes and reservations to the annexes.

APPENDIX 1

U.S. Customs Service—Statement of G. R. Dickerson, Deputy Commissioner of Customs for International Affairs, Presented to the Senate Foreign Relations Committee, May 24, 1983

Mr. Chairman and members of the committee, we appreciate this opportunity to appear before you today in connection with your consideration of the International Convention on the Harmonization and Simplification of Customs Procedures, which is better known as the Kyoto Convention.

Mr. Chairman, we believe that this convention is a very positive international effort to facilitate the movement of goods by modernizing and standardizing customs formalities around the world. The United States rightfully deserves to be in the forefront of this international effort so that it can influence the elimination or simplification of customs barriers to trade.

The Kyoto Convention is the result of the facilitation activities of the Customs Cooperation Council. The Council, which was established in 1953, has sought to secure the highest degree of harmony and uniformity in the customs systems of its member countries. After years of drawing up individual resolutions and recommendations on the various procedures utilized by customs authorities to clear goods, passengers and means of transport, in 1970, the Council embarked on a project to address all major customs procedures under one umbrella instrument. The instrument was designed as a main body of rules and separate annexes which address individual customs procedures in detail. Each annex was constructed of standards, recommended practices and notes which set out the desirable ways of implementing a procedure. The instrument was designed as a body of rules which could be accepted with one or more of the procedural annexes.

In 1973, the body of the Kyoto Convention and three of its annexes were adopted by the Council in Kyoto, Japan. The development of annexes continued until 1981. At the present time, 30 annexes have been completed.

The Kyoto Convention has been accepted by 38 countries and the European Community.

The United States has been involved in the development of this convention since its inception. As members of the Customs Cooperation Council since 1970, the United States has been represented by U.S. customs officers at all meetings dealing with the development of the convention and its annexes. As a matter of fact, this is why so much of the Kyoto Convention reflects the innovations which have been introduced by U.S. customs.

It is being recommended that the United States accede to the convention and 20 of its 30 annexes. The acceptance of only 20 annexes is being recommended because these annexes are alined with existing

U.S. law and regulations and would not require the filing of significant reservations. Of the remaining 10 annexes, 4 were adopted after our accession package was prepared and finalized. It is possible that U.S. adoption of one or more of these four may be considered at a latter date. The six annexes which we have chosen not to consider are either procedures not utilized in the United States or ones which would require the filing of a significant number of reservations. The acceptance of 20 annexes would be more than that accepted by any other contracting party.

Mr. Chairman, we believe that there are a number of good reasons why the Kyoto Convention would be desirable for the United States.

The United States is currently encouraging Japan to revise or eliminate some of its customs procedures and formalities which may function as nontariff barriers to U.S. exports. Our accession to the Kyoto Convention would give us another lever to use to influence the Japanese. The procedures outlined in the 30 annexes to the Kyoto Convention represent an international consensus on the most efficient and least onerous methods to carry out the necessary customs controls. Once we are a contracting party to the convention, we can use our partnership in the Kyoto Convention as a means of influencing other customs services to change their procedures in cases where they differ considerably from the norms set out in the convention.

The developing countries are looking at the Kyoto Convention as a guide to modernizing their customs systems. Some of our European trading partners, such as Austria and the European Communities, are already providing technical customs assistance to countries based on the provisions in the Kyoto Convention. The United States should be in a position to do likewise. The European countries may gain significant trade benefits by assisting developing countries to modernize along the lines suggested by the Kyoto Convention.

The United States played an active role in developing the Kyoto Convention. Many of the annexes reflect U.S. thinking on the ways to facilitate the customs treatment of goods and persons while performing the necessary enforcement functions. Now that the Kyoto Convention has been in force for a number of years, the contracting parties are considering possible amendments to the convention and its annexes. Unless we become a contracting party, we will not be in a position to block or modiy amendments which are not in our interest.

It is possible that customs procedures may be an important matter for disussion in future multinational trade negotiations. U.S. accession to the Kyoto Convention and a large number of its annexes would place us in a more favorable position in any such discussions and enable us to press other countries to revise or eliminate restrictive practices.

This concludes my prepared remarks. My staff and I are prepared to discuss the details of the convention and answer your questions and those of the committee members.

Thank you.

APPENDIX 2

THE U.S. TRADE REPRESENTATIVE,
Washington, May 23, 1983.

Hon. CHARLES H. PERCY,
Chairman, Senate Foreign Relations Committee,
U.S. Senate, Washington, D.C.

DEAR CHUCK: I am writing to express my firm support for U.S. accession to the International Convention on the Harmonization and Simplification of Customs Procedures, better known as the Kyoto Convention. The purpose of this convention is to facilitate international trade by simplifying and standardizing as far as possible the customs legislation of all countries. The convention was concluded in Kyoto, Japan, on May 18, 1973, and has since been accepted by 38 countries and the European Community.

The United States has been actively involved throughout the development of the Kyoto Convention and its 30 annexes. Much of the convention and many of the annexes reflect existing U.S. customs procedures. U.S. accession to the Kyoto Convention will enable us to continue to influence the harmonization of international customs legislation and to press other countries to eliminate or revise customs procedures and formalities that may create non-tariff barriers to our exports.

The simplification and standardization of customs procedures will result in significant trade benefits for all countries. So that we may continue to play a leading role in this important international effort, I urge the Congress to endorse U.S. accession to the Kyoto Convention.

Very truly yours,

WILLIAM E. BROCK.

APPENDIX 3

AMERICAN ASSOCIATION OF
EXPORTERS AND IMPORTERS,
New York, N.Y., May 20, 1983.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR SENATOR PERCY: The American Association of Exporters and Importers (AAEI) supports ratification of the International Convention on the Simplification and Harmonization of Customs Procedures (the "Convention") along with the twenty annexes, with the reservations indicated in President Reagan's February 22, 1982 Message transmitting the Convention (Senate Treaty Document 97–23).

AAEI is a 1,300-member, 62-year-old association of exporters, importers, and firms servicing the requirements of international traders. AAEI's members are actively involved in importing and exporting goods such as apparel, electronics, foods, computers, iron, and steel and in providing the means to finance, insure, and transport these goods.

AAEI believes that it would be in the best interests of U.S. importers and exporters for the United States to accede to the Convention and these twenty annexes.

The Convention is meant to serve as a model for the modernization, simplification, and harmonization of customs procedures worldwide. Although AAEI questions whether it promotes simplification, it will nonetheless be extremely useful in promoting the standardization of customs procedures throughout the world since it is comprehensive and establishes meaningful, yet flexible standards and recommended practices.

Harmonized customs procedures will assist United States efforts to improve export performance. AAEI believes that the Convention could play an important role in this regard similar to that of the GATT Valuation Code. However, the United States cannot urge other countries to adopt procedures of the Convention unless it first accedes to the Convention.

The U.S. government rightly devotes a good deal of time and earmarks monies to encourage and promote exports by small and medium-sized firms, especially those which are new to export. This is the segment with the greatest potential for contributing to a positive balance of trade.

As the Convention substantially embodies U.S. customs procedures smaller exporters in particular would benefit from adoption because their familiarity with U.S. customs requirements would provide valuable insight into foreign procedures (at least of signatory countries).

The U.S. Customs Service itself would be in a better position to aid in the export promotion effort by providing guidance on both U.S. export and foreign import requirements to companies lacking operations

or representatives in foreign markets. Clearly, operational differences and internal regulatory differences (or reservations by some countries to particular annexes of the Convention) will continue to exist and U.S. exporters will need to follow up with foreign customs officials. However, the more information that is available to them, in Washington and if possible in the field offices near their businesses, the more attractive export activity will be.

While adoption of the Convention has symbolic value, as a statement of commitment to facilitate the flow of goods across international borders, in a more immediately practical way the Convention's adoption would facilitate the government's study, in the important area of government regulations, of foreign country barriers which may be amenable to government action (and those which are probably not) by providing a basis for a standardization of customs procedures. This should make trade-distorting digressions more readily apparent and documentable as well as significantly facilitate the entry of firms into export markets. The Convention also provides minimum standards of conduct. Again, once the United States accedes to the Convention, the Executive Branch will be in a position to assist U.S. exporters, pursuant to existing statutory authorities, in eliminating procedural barriers in foreign markets.

United States customs procedures now conform to the Convention with only a small number of exceptions. These exceptions (which are embodied in the reservations) have little significant substantive effect. While AAEI would support the changes in the customs laws and regulations necessary to remove most of these reservations, the Association believes that the Convention should be ratified.

AAEI's support for ratification of the Convention is based on its understanding that none of the annexes acceptable to the United States require changes in U.S. law or practice, and, further, that the annexes provide minimum standards which do not preclude a signatory from providing a more liberal regime, or in the words of Article II of the Convention, "granting facilities greater than those provided for" in the annexes.

AAEI understands that in the event of conflicts between United States law and the Convention for which no reservations have been entered, and where U.S. law provides more liberal treatment, the Convention will not be considered to have amended U.S. law. AAEI has found no such instances, nor have any been brought to the Association's attention. Nevertheless, should such conflicts be discovered in the future, the United States should not be bound to adopt more restrictive provisions. Such a general reservation would be consistent with the intent of the Convention and AAEI recommends it for Congressional consideration.

AAEI appreciates the opportunity to express its views on this important issue. The Association stands ready to actively work with you on the development of rules promoting a more open international trading system.

Sincerely,

EUGENE J. MILOSH,
Executive Vice President.

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98TH CONGRESS } SENATE { EXECUTIVE REPT.
1st Session } { No. 98–10

REVISED NICE AGREEMENT ON TRADEMARKS

JUNE 20, 1983.—Ordered to be printed

Mr. PERCY, from the Committee on Foreign Relations, submitted the following

REPORT

[To accompany Ex. E, 96–1]

The Committee on Foreign Relations, to which was referred the Revised Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, done at Geneva on May 13, 1977, having considered the same, reports favorably thereon without amendment and recommends that the Senate give its advice and consent to ratification thereof.

PURPOSE

The purpose of this treaty is to make minor revisions in the Nice Agreement of 1957 for the protection of private trademark rights.

BACKGROUND

The original Nice Agreement was concluded in 1957 and revised in Stockholm in 1967. The United States became a party in 1972 and participated actively in the 1977 Geneva revision of the agreement (the "Geneva Act"), which is the instrument presently under consideration. The Nice Agreement is a special agreement established under Article 19 of the Paris Convention for the Protection of Industrial Property, which itself dates back to 1883.

The Nice Agreement is essentially an administrative tool, providing a system for classifying goods and services for the purposes of registering trademarks and service marks. The classification system presently includes 34 classes for goods and 8 classes for services covering some 20,000 items. This classification is used in the national registration systems of all the Contracting States, including the United States, which thereby permits the registration of marks among the participating states and affords greater protection for them against infringe-

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ment. The lists of classes are reviewed and revised periodically by the Committee of Experts established under the agreement which consists of representatives from all Contracting States.

The major change instituted by the present treaty is to allow such revisions by the Committee of Experts to be made by a four-fifths vote rather than requiring a unanimous decision. In the past, efforts by the United States and other countries to move goods from one class to another or to add classes have been blocked by four dissenters. The present revision provides a more workable arrangement for making such decisions. Furthermore, it would change the past practice of allowing countries to vote by proxy, thus preventing absent states from being able to prevent decisions.

Other minor changes relate to the status of explanatory notes on the list of classes, the frequency of amendments, and the date on which changes enter into force.

COMMITTEE ACTION

The Committee on Foreign Relations held a hearing on May 24, 1983, and heard testimony on the Convention from Michael Calingaert, Deputy Assistant Secretary of State for International Resources and Food Policy in the Bureau of Economic and Business Affairs. Mr. Calingaert noted that the agreement had the full support of the Department of Commerce, including its Patent and Trademark Office, and the private sector.

On the same day, the Committee by voice vote ordered the Convention reported to the Senate with a recommendation that it receive favorable advice and consent to ratification.

COMMITTEE COMMENTS

The Committee is satisfied that the treaty makes modest improvements in a long-standing and worthwhile agreement and should be ratified by the United States. No opposition to the treaty is apparent. *The Revised Nice Agreement is fully consistent with domestic United States law and practice relating to trademarks and will not require budgetary outlays or implementing legislation.* The Committee recommends approval of the resolution of ratification by the full Senate.

TEXT OF RESOLUTION OF RATIFICATION

Resolved, (*two-thirds of the Senators present concurring therein*), that the Senate advise and consent to the ratification of the Revised Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, done at Geneva on May 13, 1977.

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98TH CONGRESS
1st Session

SENATE

EXECUTIVE REPT.
No. 98–11

INTERNATIONAL COFFEE AGREEMENT

JUNE 29 (legislative day, JUNE 27), 1983.—Ordered to be printed

Mr. PERCY, from the Committee on Foreign Relations, submitted the following

REPORT

[To accompany Treaty Doc. 98–2]

The Committee on Foreign Relations, to which was referred the International Coffee Agreement 1983, signed by the United States on March 23, 1983, having considered the same, reports favorably thereon without amendment and recommends that the Senate give its advice and consent to ratification thereof.

PURPOSE

The purpose of this agreement is to assure continued international cooperation between coffee producing and consuming countries in stabilizing international trade in coffee. The terms of the agreement are designed to reduce the volatility of international coffee prices and to moderate the fluctuations in coffee production and supply which result from wide swings in prices.

BACKGROUND

On May 4, 1983 the President transmitted to the Senate for advice and consent to ratify the International Coffee Agreement 1983 (ICA), signed by the United States March 23, 1983 the fifth, in a series of producer-consumer coffee agreements that began in 1963. (U.S.-Latin American cooperation on coffee dates back to World War II). A six-year agreement, intended to take effect October 1, 1983, it would replace the International Coffee Agreement, 1976, which expires September 30, 1983.

COMMITTEE ACTION

The Senate Foreign Relations Committee held a hearing on the agreement on May 24, 1983. Prior to the hearing, the Committee communicated with representatives associated with the major coffee processing, distributing and consumer groups in the United States and de-

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termined that these groups all supported ratification of the agreement. The Committee received a statement of endorsement from the National Coffee Association of the U.S.A., Inc., which represents 90 percent of the U.S. coffee importing, roasting and grinding industry nationwide. The consumer advisors accredited to the U.S. negotiating delegation also support the agreement as beneficial to consumers by assuring a stable supply at reasonable prices. One company has conveyed to the Committee reservations about the provisions of the agreement, but the Committee has received no indication that these reservations are shared by any other interested parties.

At the hearing on May 24th, the Committee heard a statement by Mr. Michael Calingaert, Deputy Assistant Secretary of State for International Resources and Food Policy, representing the Administration. Mr. Calingaert recommended without qualification U.S. ratification of the agreement as in the interests of both producer and consumer groups in the United States. That statement and the text of the hearing including Committee questions of Mr. Calingaert and his responses are included in the Appendix.

Following the hearing, the Committee on May 24th held a business meeting at which time the Committee, by voice vote, without objection, ordered the agreement reported to the Senate with recommendation that it receive favorable advice and consent.

Appendices to this report contain:

A. Statement of Mr. Michael Calingaert, Deputy Assistant Secretary of State, International Resources and Food Policy, May 24, 1983.

B. Summary, International Coffee Agreement, March 31, 1983, U.S. Department of State.

C. Transmittal Letter to Chairman Charles H. Percy from Powell A. Moore, Assistant Secretary of State for Congressional Relations, May 16, 1983.

D. Letters to Chairman Charles H. Percy from George Boeklin, President, National Coffee Association of the U.S.A., Inc., May 19, 1983, and from Alan V. Bories, Vice President, International Coffee Corporation, May 11, 1983.

COMMITTEE COMMENTS

The International Coffee Agreement 1983 (ICA) carries forward many of the provisions of the preceeding agreement. The U.S. negotiators were able to obtain some amendment of provisions considered favorable to U.S. interests. These changes provided for greater consumer input into the allocation of export quotas; more effective provisions for the declaration of quota shortfalls; and clarification of producer obligations not to engage in multilateral marketing arrangements outside the scope of the ICA.

The agreement establishes a target price range within which both consumer and producer countries party to the agreement undertake to cooperate in an effort to maintain coffee prices. The ICA attempts through a system of annual country export quotas to maintain coffee prices within the range agreed by producers and consumers. Price range and global quota are renegotiated annually. Production exceeding consumption requirements must be stored by the producer country and held for release to the market to dampen upward price movements. Consumers do not directly pay for stock acquisition or mainte-

nance. Prices have generally remained within or below the price range since its first use in late 1980. Producers undertake to store at their expense all product in excess of each country's combined export quota and domestic consumption.

The ICA is important in U.S. relations with many developing nations, including 16 which depend on coffee for more than 20 percent of total exports. The U.S., the largest single importer in the $8 billion international coffee trade, accounts for an estimated 1.1–1.2 million tons worth $2.5–$3.0 billion in 1983. The four largest ICA exporters, Brazil, Columbia, Ivory Coast and Indonesia, are all key regional powers. Central American countries' export dependence on coffee ranges from 20–60 percent. Stability in coffee prices encouraged by the ICA is important to their economic and social development, as it is to our producers and consumers.

United States participation in this agreement is pivotal to the effectiveness of the agreement because the U.S. is the world's largest consumer and importer of coffee, and the agreement could not be effective without its participation. Ratification of the agreement is vitally important to many friendly developing countries of Latin America, Africa and Asia.

Ratification of this agreement will have no net new budgetary impact. The costs of U.S. participation in the International Coffee Agreement are now covered by provisions in the budget of the U.S. Department of State. The findings of the Congressional Budget Office on this point are included in the Appendix. The United States Government will be obliged to participate in plenary sessions of the agreement members, usually on an annual basis. Implementing legislation is required, which will be submitted for Senate action upon completion of advice and consent action on this agreement.

The Committee recommends that the Senate take action on advice and consent at an early date to allow adequate time for completion of implementing legislation before the current agreement expires September 30, 1983.

ENTRY INTO FORCE

The Agreement will enter into force on October 1, 1983, if by that date Governments representing at least 20 exporting Members holding at least 80 percent of the votes of the exporting Members and at least 10 importing Members holding at least 80 percent of the votes of the importing Members, calculated as at 30 September 1983, have deposited their instruments of ratification, acceptance or approval.

TEXT OF RESOLUTION OF RATIFICATION

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the International Coffee Agreement, 1983, signed by the United States on March 23, 1983.

APPENDIX A

MAY 24, 1983.

STATEMENT OF HON. MICHAEL CALINGAERT, DEPUTY ASSISTANT SECRETARY FOR INTERNATIONAL RESOURCES AND FOOD POLICY, BUREAU OF ECONOMIC AND BUSINESS AFFAIRS, DEPARTMENT OF STATE, ACCOMPANIED BY, HARVEY WINTER, DIRECTOR, OFFICE OF BUSINESS PRACTICES, DEPARTMENT OF STATE

Mr. CALINGAERT. Yes, Mr. Chairman. I would like to comment briefly.

The CHAIRMAN. You were here when I asked that we are going to try to hold statements to five minutes apiece so we can allow time.

Mr. CALINGAERT. It will be less than that, Mr. Chairman.

The Nice Agreement concerning international classification of goods and services for the purposes of the registration of works establishes a uniform international system of classifying goods and services to which trademarks and service marks are applied.

Use of the single classification system facilitates the registration of marks in member States of the agreement. It can also serve as an aid in determining possible trademark infringements.

This agreement is one of a number of special agreements under the Paris Convention for the protection of industrial property to which the U.S. is a party. This is all handled by the World Intellectual Property Organization, a U.N. specialized agency.

The U.S. acceded to the Nice Agreement in 1972. This particular revision was undertaken in 1977 at the request of the U.S., among other countries. Since the agreement is an administrative tool, there is no private sector opposition to the United States ratification of the Geneva revision.

With reference to the International Coffee Agreement of 1983, this is a successor agreement to the 1976 agreement and indeed is one of a series going back to 1962 which the U.S. has always been a party to. The Agreement is intended to maintain coffee prices within an agreed range to provide a remunerative return to producers and stability of supply to consumers. Prices have generally remained within or below that range since the current Agreement's economic provisions came into effect in 1980.

The Coffee Agreement is an important element in our bilateral foreign relations with a number of producing countries, including many in Central and South America. Coffee earnings stability is important to the social and economic development of these countries, and they recognize that the coffee agreement could not function effectively without the participation of the U.S.

The International Coffee Agreement is supported by the National Coffee Association and various consumer representatives who have participated in the negotiation of the Agreement. The Administration

views this Agreement as an important element in our overall foreign policy.

The CHAIRMAN. Thank you very much.

Secretary Calingaert, I would like to say that it would always help, as the Department well knows, if we could have, in accordance with Committee rules, if there is to be prepared testimony, a copy of that testimony 24 hours ahead. I notice you read from a text. If you would leave that text with us, we would appreciate having that.

Are you aware of any opposition to the International Coffee Agreement?

Mr. CALINGAERT. No, I am not aware of any, Senator. As I mentioned, the National Coffee Association, which accounts for over 90 percent of the coffee imported and roasted, has supported this and I think has been very supportive of previous agreements.

The CHAIRMAN. Are there features of the arrangement which the United States would like to see changed in future agreements?

Mr. CALINGAERT. Well, that is hard to say since we have just negotiated an agreement now for the coming six-year period. We were quite successful in getting some improvements made in the existing agreement.

The CHAIRMAN. Which developing countries are most affected by this agreement and what would be the consequences to them of rejecting or substantially delaying ratification of this agreement?

Mr. CALINGAERT. There are many countries in Latin America and Africa who are producers and for whom coffee accounts for a large share of their export earnings. Indeed, coffee is the second major commodity traded in the world behind oil.

There are, as I remember, about nine countries in Latin America alone where coffee accounts for over 50 percent of export earnings. Well, to take just a few examples, in Burundi, which, of course, is Africa, not Latin America, 87 percent of earnings; Salvador, 60 percent; Ecuador, 57 percent; Madagascar, 53 percent; Uganda, 98 percent.

In the absence of the agreement, their export earnings would be affected. The purpose of the agreement, as I mentioned, is to maintain remunerative returns to producers and corresponding benefits to consuming countries, and the purpose is to provide incentives so that there will be some assurance of supply over the longer term.

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The CHAIRMAN. I have no further questions or anything else. Is there anything else either one of you would like to add with respect to these treaties? Would you advise that the Senate provide their advice and consent to their ratification?

Mr. CALINGAERT. Yes, we would.

Mr. SEQUEIRA. Yes, Mr. Chairman, definitely.

The CHAIRMAN. Thank you very much indeed.

There being no further business in this hearing, the hearing is adjourned, and at 11:00 we will take up the business meeting.

Appendix B

International Coffee Agreement 1983 Summary

Negotiations for the 1983 International Coffee Agreement (ICA) were completed in late September 1982 by the 70 members of the International Coffee Organization (ICO). The U.S., an ICO member, actively participated in the negotiations for the 1983 ICA.

The 1983 ICA is the latest in a series of producer-consumer coffee agreements that began in 1963 (U.S.-Latin American cooperation on coffee dates back to World War II). The 1983 ICA would replace and carry forward most of the modifications. The central economic feature of both agreements is the commitment to attempt to stabilize coffee prices within a range that is fair to consumers and remunerative to producers through individual country export quotas and a control system enforced by the importing members. Quotas are reduced to defend the price floor and expanded or suspended to defend the ceiling.

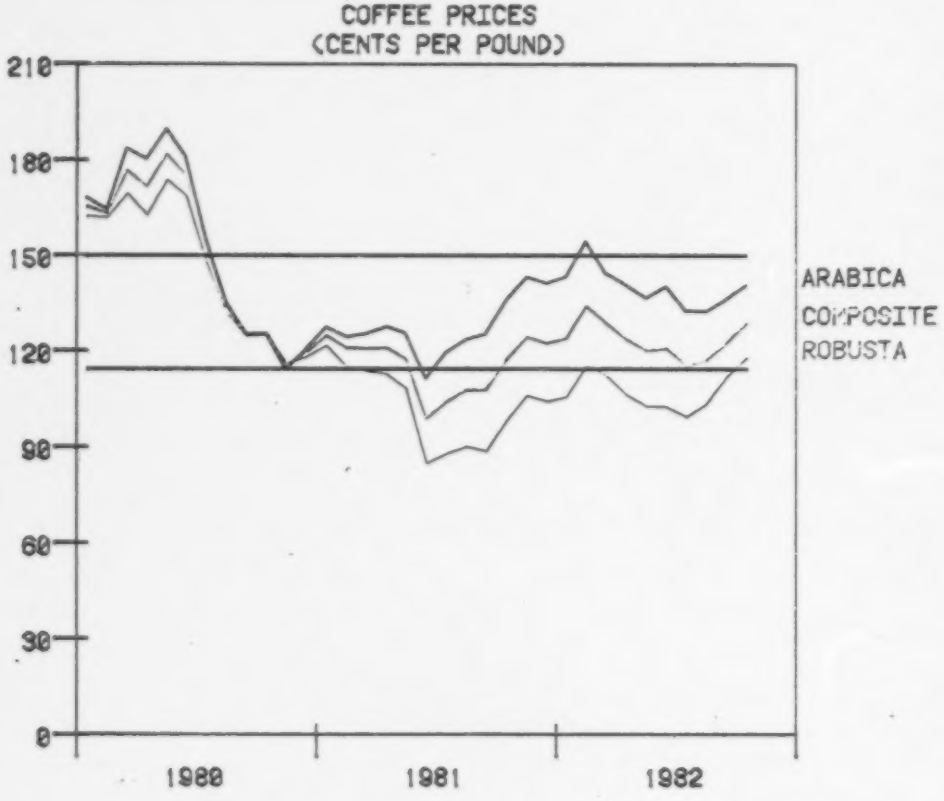
The United States played a major role in the negotiations of both the 1976 and 1983 agreements seeking to assure a balance of benefits to producers and consumers. The $1.15–$1.50 price range, established in 1980 and unchanged since, provides a reasonable incentive for continued coffee production while allowing prices to react within limits to traditional market factors. Consumers have a direct input in determining the aggregate annual quota and exercise influence over the distribution of that quota among coffee types. U.S. coffee roasters are satisfied that their supply requirements are being met in both quantity and type. Further, our participation in the ICA was conditioned on cessation of unilateral attempts at market manipulation by producers. With 30 percent of the consumer votes resulting from our trade share, we have a virtual veto on major policy decisions taken under the agreement.

The above features of the ICA apply to nearly 95 percent of world coffee traded covering nearly all exporters and 90 percent of the importing countries. With this broad participation, the agreement can be given some credit for the fact that coffee prices have remained within or near the price range for the two years the economic provisions have been in effect (see annex 1). Experience at the upper end of the range is admittedly limited but early in 1982 prices exceeded the range, quotas were expanded, and prices dropped. Econometric simulations performed by the Department indicate that in the event of moderate or severe supply disruptions (e.g. a frost in Brazil) the operation of the ICA could save U.S. consumers as much as $400–500 million over five years compared to the situation absent an agreement.

The importance of coffee to the economies of a large number of Caribbean and other producers accounts for their perception of the need for, and importance of, the International Coffee Agreement and our continued participation. Coffee exports account for over 50 percent

of total export earnings for seven countries including Colombia and El Salvador. Nine others (e.g. Guatemala, Honduras, Costa Rica, Ivory Coast and Kenya) rely on coffee for between 20 and 50 percent of their export earnings (see annex 2). In most of these countries, political and economic stability are closely linked and economic stability often hinges on a more predictable coffee market such as that encouraged by the ICA. These countries recognize that the economic provisions of the ICA cannot function without the United States, the world's major coffee consumer. Thus Brazil, Colombia and other coffee producers consider our participation in the ICA a reflection of our overall bilateral relations. In the multilateral context, commodity matters will be a major agenda item for UNCTAD VI in June. Any indication that the U.S. will not participate in the 1983 ICA will be viewed by a majority of developing countries as a major shift in U.S. policy.

The U.S. coffee trade and industry have historically taken a strong interest in the ICO, participating actively and cooperatively in ICA negotiations and implementation. Their major representative, the National Coffee Association, has gone on record as favoring U.S. participation in the 1983 ICA.



Coffee exports as a percent of total exports, 1981

Country:	Percent
Brazil	6.5
Burundi	87.5
Cameroon	[1] 21.7
Central African Republic	[1] 27.4
Colombia	50.0
Costa Rica	23.4
Dominican Republic	6.4
Ecuador	4.9
El Salvador	57.8
Ethiopia	60.7
Guatemala	22.6
Haiti	19.5
Honduras	[1] 24.6
India	[2] 3.2
Indonesia	2.4
Ivory Coast	30.0
Kenya	20.6
Madagascar	[1] 53.2
Mexico	[1] 2.9
Nicaragua	[1] 36.8
Papua New Guinea	13.0
Paraguay	.4
Peru	3.3
Philippines	[2] .9
Rwanda	[1] 52.8
Sierra Leone	[2] 16.8
Tanzania	[1] 23.4
Togo	[1] 7.9
Uganda	[1] 98.7
Zaire	14.8

[1] 1980.
[2] Estimate.

Source: IMF, "International Financial Statistics," 1982.

APPENDIX C

DEPARTMENT OF STATE,
Washington, D.C., May 16, 1983.

Hon. CHARLES H. PERCY,
Chairman, Senate Foreign Relations Committe, U.S. Senate.

DEAR MR. CHAIRMAN: The Administration supports the International Coffee Agreement 1983 and urges the Senate to give its advice and consent to ratification. The International Coffee Agreement 1983, a six-year agreement which would take effect October 1, 1983, would replace the International Coffee Agreement 1976. Senate ratification of the ICA and implementing legislation passed by both Houses of Congress by October 1, 1983, are required if the Administration is to carry out its decision that ICA membership is in the U.S. interest.

The International Coffee Agreement 1983 is the latest in a series of producer-consumer coffee agreements that began in 1963 (U.S.-Latin American cooperation on coffee dates back to World War II). The U.S. participated in the International Coffee Agreements of 1962, 1968, and 1976. The 1983 agreement carries forward many of the provisions of the 1976 agreement, but also contains several improvements sought by the U.S. Among these are a greater consumer input into the allocation of export quotas, more effective provisions for the declaration of quota shortfalls, and clarification of producer obligations not to engage in multilateral marketing arrangements outside the scope of the ICA. After a thorough interagency review the Administration decided it was in the U.S. interest to sign the International Coffee Agreement 1983 and submit it to the Senate for advice and consent to ratification.

The major trade group representing the U.S. coffee industry, the National Coffee Association, has gone on record as favoring ratification of the International Coffee Agreement 1983. Consumer representatives attended the major ICA negotiating sessions and have expressed the view that the ICA is in the consumer interest.

That there has been a long history of international cooperation in coffee is understandable as coffee is one of the most important single commodities in world trade. Coffee is the second most important commodity export of the developing countries, trailing only petroleum. The annual value of coffee traded is about $8 billion. The U.S. is the largest single importer of coffee; we will import on the order of 17–18 million bags of coffee (1.1–1.2 million tons) valued at $2.5–3.0 billion in 1983. Coffee is a highly important export for a number of developing countries of particular interest to the United States. The four largest exporting members of the ICA, Brazil, Colombia, Ivory Coast and Indonesia, are all key regional powers. Central American dependence on coffee exports as a share of total export earnings ranges from 20–25 percent for Costa Rica, Guatemala and Honduras to close to 60 percent for El Salvador. In all there are 18 countries that depend

on coffee for more than 20 percent of their export earnings (see Annex 1). These countries consider that the stability in coffee prices encouraged by the ICA is important to their economic and social development, and they realize that the ICA could not function without the effective participation of the United States. The ICA therefore assumes a significant role in our bilateral and multilateral relations with these producers.

The ICA attempts to maintain the price of coffee within a range agreed to by producers and consumers through a system of country export quotas. Currently the price range (for green coffee in bulk quantities) is $1.15–$1.45 per pound, and the global export quota is about 56 million bags. The price range and global quota are renegotiated annually. Production in excess of a country's export quota, domestic consumption requirements, and exports to non-members must be stored by the country. These coffee stocks can then be released to the market to dampen upward price movements. (Because coffee is a tree crop, production cannot respond immediately to price signals.) Consumers do not directly pay for the acquisition or maintenance of these stocks.

Export quotas are reduced in steps (by a maximum of four million bags) in order to defend the lower end of the price range, and increased in a symetrical fashion to defend the upper end of the price range. Above $1.50 per pound, export quotas are suspended entirely and exporting members are permitted to supply as much coffee as the market requires to bring the price back below the ceiling. Prices have generally remained within or below the price range since its introduction in late 1980. See Annex 2 for further information on prices.

The Administration recognizes that the ICA is not a panacea for all current and potential coffee problems. It believes, however, that the economic provisions of the ICA are acceptable measures to apply to the problem of cyclical coffee prices. Further, the structure of the ICA provides a continuing forum for producer/consumer cooperation on a wide range of international coffee issues.

With cordial regards,

Sincerely,

POWELL A. MOORE,
Assistant Secretary for Congressional Relations.

APPENDIX D

INTERNATIONAL COFFEE CORP.,
New Orleans, La., May 11, 1983.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: Enclosed is a copy of a letter which I sent to members of the Louisiana Congressional Delegation late last year on the subject of U.S. Participation in the International Coffee Agreement. Also enclosed is a note received today that President Reagan has asked the Senate to enact legislation which would create a new international agreement, effective October 1, 1983 through September 30, 1989.

We are unalterably opposed to this agreement, as: (1) It is not in the best interest of the U.S. consumer; (2) it adversely affects our balance of trade; and (3) it offers more advantages to non-members who historically violate the intent of the agreement, for the whole theory of quota controls is contrary to free trade.

Enclosed also is a copy of Clause 3 of Article 2 of the present agreement. You will note from my letter to Congressman Boggs that this clause is not adhered to and has created havoc in our business.

Please give this matter your attention, as coffee is the second most valuable item which moves in world trade, and we surely feel that after you note its negative impact, you will vote against the agreement.

Thanks for your consideration.

Yours very truly,

ALAN V. BORIES,
Vice President.

Enclosures.

NOVEMBER 30, 1982.

Hon. LINDY BOGGS,
U.S. House of Representatives,
Washington, D.C.

DEAR LINDY: Legislation to provide funding for United States participation in the International Coffee Agreement, will be presented to Congress for its approval shortly, which my company would like to see defeated. Perhaps the best argument that could be made to reject this bill is to advise that my company purchased coffee a few days ago, from a Latin-American country, for shipment to the Near East, at 35¢ per pound, and shortly thereafter, purchased similar quality coffee on a relatively unchanged market, at $1.02 per pound for shipment to the United States. Further, a few days ago, Reuters' News Service reported that Brazil sold a large quantity of coffee to East Germany and was working on a transaction whereby it would sell additional coffees to Hungary at 65¢ per pound—the very same coffee Brazil is selling at $1.30 per pound for delivery to the United States.

The reason we are paying these enormous premiums is because the United States is a member of the International Coffee Organization, and the above-cited countries are not. As a Member of Congress, I know you are familiar with international commodity agreements in general, and the International Coffee Agreement in particular, which strives, by imposition of quotas and other means to establish so-called "fair prices" for under-developed countries. I contend these agreements are not sound in general, and have not and will not function properly for coffee. Why should Brazil, one of the more prosperous countries, receive a 65¢ per pound subsidy from the United States? Why should a country in the Near East buy coffee 67¢ per pound cheaper than we can? Why does Colombia, the world's second-largest coffee producer, receive subsidies for its coffee crop? The same question can be asked about oil-rich Venezuela, and many others.

If it is the desire of the United States to render financial assistance to under-developed countries, I feel that funds should be allocated specifically to needy countries, rather than spread out at random to all coffee producers', irrespective of need and at the expense of the American public. Across-the-board subsidies certainly create many on-going problems, such as encouraging more instead of less production and, of course, one would have to be naive to think that some of the 35¢ coffee would not eventually find its way back to the United States or other signatory countries, causing unfair competition in our industry.

Unfortunately, the National Coffee Association, a trade group dominated by coffee roasters, generally favors this agreement as fundamentally higher prices for raw materials produce greater profits; green coffee importers such as ourselves are for the most part against the agreement as, of course, any proponent of free trade and capitalism should be. However, they are loathe to speak out in fear of antagonizing their coffee-roasting customers.

The funds required to implement United States participation are minimal; however, the expense to the American public is enormous, and I urge you to become thoroughly informed on this very important bill prior to making your decision. Coffee is the second most valuable commodity moving in world trade, and if funding is not provided for United States membership in the International Coffee Agreement, the Agreement will no longer function as we are the largest consuming country, and prices would ultimately reflect the proper market ratio between supply and demand, and decline to more appropriate and competitive levels.

Documents supporting the above statements and conclusions are on file in our office, and if there is any further information you desire, do not hesitate to get in touch with me or any member of my firm.

Respectfully yours,

INTERNATIONAL COFFEE CORP.,
ALAN V. BORIES,
Vice President.

[No. 1893, May 9, 1983]

President Sends ICA to Senate

On May 4, President Reagan submitted the text of the International Coffee Agreement 1983 to the Senate for its advice and consent to ratification. The Administration hopes to have the ratification process completed by the end of May. The new agreement would come into effect on October 1, 1983 and would carry through September 30, 1989. The President said the coffee agreement is vitally important to a large number of friendly, developing countries in Latin America, Africa and Asia. In 1981, coffee exports by developing countries totalled US $8 billion, or about 20% of their total export earnings, the President said, and added that last year U.S. coffee imports totalled US $2.7 billion, Reuters reported.

International Coffee Agreement of 1983

ARTICLE 2

General Undertakings by Members

(3) Exporting Members undertake not to adopt or maintain any governmental measures which would permit the sale of coffee to non-members on terms commercially more favourable than those which they are prepared to offer at the same time to importing Members, taking into account normal trade practices.

National Coffee Association of U.S.A., Inc.,
New York, N.Y., May 19, 1983.

Senator Charles H. Percy,
Chairman, Committee on Foreign Relations,
Washington, D.C.

Dear Senator Percy: The National Coffee Association of U.S.A., Inc., whose members import and process ninety percent of the coffee consumed in the United States, favors participation of the United States in the International Coffee Agreement 1983, and recommends that the Senate give its advice and consent to ratification.

Respectfully,

George E. Boecklin,
President.

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